

**STATEMENT OF AUSTIN SMYTHE, ACTING DEPUTY DIRECTOR
OFFICE OF MANAGEMENT AND BUDGET
BEFORE THE HOUSE JUDICIARY COMMITTEE
SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY, AND CLAIMS
U.S. HOUSE OF REPRESENTATIVES**

JULY 20, 2006

Mr. Chairman and Members of the Subcommittee, at the request of the Subcommittee, I am appearing before you today to discuss the Energy Employees Occupational Illness Compensation Program Act (EEOICPA). As the Director wrote in his recent correspondence to Members of Congress, the Administration deeply appreciates the sacrifices that workers across the nation have made in building the nation's nuclear defense. We are committed to ensuring that all workers who are entitled to benefits under this program receive their full benefits in accordance with the law.

As a multi-agency program, EEOICPA requires coordination among its partner agencies--the Departments of Justice, Labor, Energy, and Health and Human Services (HHS)--to make sure the program operates as intended and assists claimants as efficiently as possible. OMB does not have an operational role in this program, but does carry out its responsibilities within the framework of the responsibilities of each agency as designated by statute, regulation, and Executive Order 13179 ("Providing Compensation to America's Nuclear Weapons Workers"). OMB has performed this role since the program was enacted in 2000. Since the program began paying benefits in 2001, EEOICPA has paid more than \$2 billion to 23,000 claimants.

I understand that the Subcommittee is concerned about what it believes are Administration plans to change the EEOICPA program structure or cut benefits to workers and their survivors. The Director has written to Members of Congress on this issue, and I am submitting with my written testimony a copy of one such letter. As the Director has clearly stated in this letter, the Administration is not pursuing any program changes to contain the costs of EEOICPA benefits and is not instituting a White House-led EEOICPA-related interagency workgroup or any new internal procedures concerning the Advisory Board on Radiation and Worker Health. In addition, no steps are being taken by the Administration to reduce the amount of Special Exposure Cohort (SEC) petition approvals in order to minimize benefit payments. The Administration is working to provide workers with the benefits legally provided in the Act in a timely and fair manner, and to ensure that all agencies comply with the law as it was written by Congress and signed by the President.

I also want to address specifically the concern that the 2007 Budget reflects an expected reduction in approval of SEC petitions. This is not the case. As you know, EEOICPA benefits are an entitlement. We have no budget policy proposals to reduce or otherwise modify these benefits. Under current law, the Administration is obligated to make these benefit payments. Like other entitlement programs, we are required to estimate the outlays from this entitlement program to determine overall spending levels. As a result,

the Budget presents the Administration's best estimates of program costs based on anticipated claims processing under current law. The Budget does not impose a ceiling on these benefits payments, nor does it anticipate changes to the SEC process or reflect future HHS actions on pending SEC petitions.

The Subcommittee also had expressed concerns about policy options being used to reduce EEOICPA Part B benefits by limiting the designation of additional SEC classes. By law, the Advisory Board provides recommendations to the President on SEC petitions, and also reviews dose reconstructions to ensure their scientific validity and quality. Executive Order 13179 delegates the President's responsibility for SEC decisions to the Secretary of Health and Human Services. The Administration does not intend to take any action to change this arrangement, nor does it intend to pre-clear SEC determinations. These approvals will be made fairly, and in accordance with program procedures, guidelines, regulations, and the law. As it has done in the past, the Administration will provide public notice of the regulations and formal procedures issued with respect to this program, and any regulations will follow the notice and comment procedures of the Administrative Procedure Act.

In conclusion, the Administration will continue to faithfully carry out EEOICPA to provide for timely, uniform, and entitled compensation of covered employees and, where applicable, their survivors, suffering from illnesses incurred by such employees in the performance of their duties. The Administration also will continue to ensure that scientific determinations and the law govern the provision of compensation under this program and will not use budgetary concerns to override those determinations. I look forward to answering the Subcommittee's questions.